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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,771	01/08/2002	Matthew Boyd	7373/72556	6313

42798 7590 10/05/2004

FITCH, EVEN, TABIN & FLANNERY  
P. O. BOX 65973  
WASHINGTON, DC 20035

EXAMINER
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FISCHER, JUSTIN R

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/038,771

Applicant(s)

BOYD ET AL.

Examiner

Justin R Fischer

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1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-10,12-20,22-29 and 31-41.

Claim(s) withdrawn from consideration: 30,42 and 43.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

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**Continuation of 2:** As to (a), claim 40 requires the combination of a perforated support surface and a heating zone- this combination was not previously required and as such, would require further search and consideration. Regarding (c) and (d), it is initially noted that four new claims have been added. Also, claim 16 has been amended in a manner that no longer requires the binder and fiber to be combined prior to the application of heat and thus, the scope of the claim has been affected. As to claims 18 and 19, the dependencies of each claim have been changed to include claim 15 or claim 16; furthermore, claim 19 defines "said heat zone" while neither claim 15 or 16 define such a zone and thus the claim lacks proper antecedent basis. Thus, in view of the above noted issues, the proposed amendment is not being entered.


**Continuation of 5:** Regarding the term "preform", applicant has attached the following definition: intended to cover any structure used as a reinforcing insert or structural support within a composite structural part, which is preferably, but not necessarily, a molded part. In this instance, applicant has attempted to define a "preform" in terms of its intended use, that being as an insert or support in a composite structural part. Clearly, the structure of Hall (substrate having layer of fibers/binder thereon) can be viewed as constituting a "preform" in that it is capable of being included within a composite structural part. For example, Hall suggests a possible use of the coated substrate as an ablative coating in the aerospace industry (e.g. rocket motor casing)- the coated substrate is included within a rocket or composite structural part. In view of the above noted definition, the term "preform" does not require any further processing or

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shaping. It is agreed that the coated substrate of Hall is not further processed, for example by molding; however, the term "preform", in view of applicant's original disclosure, only requires a substrate having a fiber/resin matrix thereon and capable of being used as an insert or support within a composite structural part. It is suggested that applicant incorporate language that requires a further processing/shaping step, such as molding, as set forth in claim 26.

  
Justin Fischer

September 30, 2004

  
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